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HOUSE BILL 3

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2010

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO TAXATION; INCREASING THE CIGARETTE TAX BY SEVENTY-FIVE CENTS (\$.75) PER PACK; PROVIDING FOR A TRIBAL TAX STAMP FOR TRIBES THAT IMPOSE A TRIBAL CIGARETTE TAX; ADJUSTING THE DISTRIBUTIONS OF THE CIGARETTE TAX AND DISCOUNTS FOR TAX STAMPS AND TRIBAL TAX STAMPS; PROVIDING FOR COLLECTION AND DISTRIBUTION OF TRIBAL CIGARETTE TAXES; DISTRIBUTING ADDITIONAL REVENUE ATTRIBUTABLE TO THE INCREASE IN THE CIGARETTE TAX TO THE GENERAL FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-6.11 NMSA 1978 (being Laws 1983, Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county and municipality recreational

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1 fund in an amount equal to [~~one and thirty-five~~] eighty-three
2 hundredths percent of the net receipts, exclusive of penalties
3 and interest, attributable to the cigarette tax.

4 B. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 shall be made to the county and municipal cigarette tax
6 fund in an amount equal to [~~two and sixty-nine~~] one and sixty-
7 six hundredths percent of the net receipts, exclusive of
8 penalties and interest, attributable to the cigarette tax.

9 C. A distribution pursuant to Section 7-1-6.1 NMSA
10 1978 shall be made to the cancer research and treatment center
11 at the university of New Mexico health sciences center in an
12 amount equal to [~~one and thirty-five~~] eighty-three hundredths
13 percent of the net receipts, exclusive of penalties and
14 interest, attributable to the cigarette tax.

15 D. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made to the New Mexico finance authority in an
17 amount equal to [~~two and two~~] one and twenty-five hundredths
18 percent of the net receipts, exclusive of penalties and
19 interest, attributable to the cigarette tax.

20 E. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 in an amount equal to [~~fourteen and thirty-seven~~] eight
22 and eighty-nine hundredths percent of the net receipts,
23 exclusive of penalties and interest, attributable to the
24 cigarette tax, shall be made, on behalf of and for the benefit
25 of the university of New Mexico health sciences center, to the

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1 New Mexico finance authority.

2 F. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 in an amount equal to [~~six and five~~] three and seventy-
4 four hundredths percent of the net receipts, exclusive of
5 penalties and interest, attributable to the cigarette tax shall
6 be made to the New Mexico finance authority for land
7 acquisition and the planning, designing, construction and
8 equipping of department of health facilities or improvements to
9 such facilities.

10 G. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 in an amount equal to [~~fifteen and seventy-nine~~] nine and
12 seventy-seven hundredths percent of the net receipts, exclusive
13 of penalties and interest, attributable to the cigarette tax
14 shall be made to the New Mexico finance authority for deposit
15 in the credit enhancement account created in the authority.

16 H. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 in an amount equal to [~~one~~] sixty-two hundredths percent
18 of the net receipts, exclusive of penalties and interest,
19 attributable to the cigarette tax shall be made, on behalf of
20 and for the benefit of the rural county cancer treatment fund,
21 to the New Mexico finance authority."

22 Section 2. A new section of the Tax Administration Act is
23 enacted to read:

24 "[NEW MATERIAL] DISTRIBUTION TO TRIBES--TRIBAL CIGARETTE
25 TAX REVENUE COLLECTED.--A distribution shall be made pursuant
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1 to Section 7-1-6.1 NMSA 1978 in an amount equal to the net
2 receipts of qualifying tribal cigarette taxes collected by the
3 department to each tribe that has imposed a qualifying tribal
4 cigarette tax. The distribution shall be based on the reported
5 sales in New Mexico by distributors of packages of cigarettes
6 stamped with tribal tax stamps to a tribe and shall be made on
7 a monthly basis by the department to each tribe for which
8 cigarette taxes were collected and reported pursuant to the
9 Cigarette Tax Act."

10 Section 3. Section 7-12-2 NMSA 1978 (being Laws 1971,
11 Chapter 77, Section 2, as amended) is amended to read:

12 "7-12-2. DEFINITIONS.--As used in the Cigarette Tax Act:

13 A. "cigarette" means:

14 (1) any roll of tobacco or any substitute for
15 tobacco wrapped in paper or in any substance not containing
16 tobacco;

17 (2) any roll of tobacco that is wrapped in any
18 substance containing tobacco, other than one hundred percent
19 natural leaf tobacco, which, because of its appearance, the
20 type of tobacco used in the filler, its packaging and labeling,
21 or its marketing and advertising, is likely to be offered to,
22 or purchased by, consumers as a cigarette, as described in
23 Paragraph (1) of this subsection;

24 (3) bidis and kreteks; or

25 (4) any other roll of tobacco that is defined

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1 as a "cigarette" in Subsection D of Section 6-4-12 NMSA 1978;

2 B. "close of business" means that time when a
3 business ceases to operate for the remainder of the day or
4 12:00 a.m., if the business is open and conducting business at
5 12:00 a.m.;

6 [~~B-~~] C. "contraband cigarettes" means cigarette
7 packages with counterfeit stamps, counterfeit cigarettes,
8 cigarettes that have false or fraudulent manufacturing labels,
9 cigarettes not sold in packages of five, ten, twenty or twenty-
10 five, cigarette packages without the tax, tribal tax or tax-
11 exempt stamps required by the Cigarette Tax Act and cigarettes
12 produced by a manufacturer or in a brand family not included in
13 the directory;

14 [~~E-~~] D. "department" means the taxation and revenue
15 department, the secretary of taxation and revenue or any
16 employee of the department exercising authority lawfully
17 delegated to that employee;

18 [~~D-~~] E. "directory" means a listing of tobacco
19 product manufacturers and brand families that is developed,
20 maintained and published by the attorney general under the
21 Tobacco Escrow Fund Act;

22 [~~E-~~] F. "distributor" means a person licensed
23 pursuant to the Cigarette Tax Act to sell or distribute
24 cigarettes in New Mexico. "Distributor" does not include:

25 (1) a retailer;

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1 (2) a cigarette manufacturer, export warehouse
2 proprietor or importer with a valid permit pursuant to 26
3 U.S.C. 5713, if that person sells cigarettes in New Mexico only
4 to distributors that hold valid licenses under the laws of a
5 state or sells to an export warehouse proprietor or to another
6 manufacturer; or

7 (3) a common or contract carrier transporting
8 cigarettes pursuant to a bill of lading or freight bill, or a
9 person who ships cigarettes through the state by a common or
10 contract carrier pursuant to a bill of lading or freight bill;

11 [~~F-~~] G. "license" means a license granted pursuant
12 to the Cigarette Tax Act that authorizes the holder to conduct
13 business as a manufacturer or distributor of cigarettes;

14 [~~G-~~] H. "manufacturer" means a person that
15 manufactures, fabricates, assembles, processes or labels a
16 cigarette or that imports from outside the United States,
17 directly or indirectly, a finished cigarette for sale or
18 distribution in the United States;

19 [~~H-~~] I. "master settlement agreement" means the
20 settlement agreement and related documents entered into on
21 November 23, 1998 by the state and leading United States
22 tobacco product manufacturers;

23 [~~I-~~] J. "package" means an individual pack, box or
24 other container; "package" does not include a container that
25 itself contains other containers, such as a carton of

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1 cigarettes;

2 K. "qualifying tribal cigarette tax" means an
3 excise, privilege or similar tax:

4 (1) imposed at a minimum rate of:

5 (a) three and seventy-five hundredths
6 cents (\$.0375) per cigarette if the cigarettes are packaged in
7 lots of twenty or twenty-five;

8 (b) seven and one-half cents (\$.075) per
9 cigarette if the cigarettes are packaged in lots of ten; or

10 (c) fifteen cents (\$.15) per cigarette
11 if the cigarettes are packaged in lots of five; and

12 (2) that does not discriminate among persons
13 or transactions based on membership in the tribe;

14 [~~J.~~] L. "retailer" means a person, whether located
15 within or outside of New Mexico, that sells cigarettes at
16 retail to a consumer in New Mexico and the sale is not for
17 resale;

18 [~~K.~~] M. "stamp" means an adhesive label issued and
19 authorized by the department to be affixed to cigarette
20 packages for excise tax purposes and upon which is printed a
21 serial number and the words "State of New Mexico" and "tobacco
22 tax";

23 [~~L.~~] N. "tax stamp" means a stamp that has a
24 specific cigarette tax value pursuant to the Cigarette Tax Act;
25 [and]

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1 ~~[N.]~~ O. "tax-exempt stamp" means a stamp that
2 indicates a tax-exempt status pursuant to the Cigarette Tax
3 Act;

4 P. "tribal member" means a person who is recognized
5 by the governing body of an Indian tribe to be an enrolled
6 member of that Indian tribe;

7 Q. "tribal tax stamp" means a stamp that indicates
8 the cigarette package bearing the stamp is to be or has been
9 sold by a retailer located on land of a tribe that has imposed
10 a qualifying tribal cigarette tax;

11 R. "tribe" means a federally recognized Indian
12 nation, tribe or pueblo located wholly or partially in New
13 Mexico, including:

14 (1) a political subdivision, agency or
15 department of a tribe;

16 (2) an incorporated or unincorporated
17 enterprise of a tribe, one or more tribes or a political
18 subdivision of a tribe; or

19 (3) a corporation considered to be an Indian
20 or a tribe by the federal government or the state; and

21 S. "tribe's land" means the reservation, pueblo
22 grant or trust land of a tribe and property held by the United
23 States in trust jointly for the nineteen New Mexico Indian
24 pueblos pursuant to Public Law 95-232."

25 Section 4. Section 7-12-3 NMSA 1978 (being Laws 1971,

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1 Chapter 77, Section 3, as amended) is amended to read:

2 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

3 A. For the privilege of selling, giving or
4 consuming cigarettes in New Mexico, there is levied an excise
5 tax at the following rates for each cigarette sold, given or
6 consumed in this state:

7 (1) [~~four and fifty-five hundredths cents~~
8 ~~(\$.0455)~~] eight and three-tenths cents (\$0.083) if the
9 cigarettes are packaged in lots of twenty or twenty-five;

10 (2) [~~nine and ten hundredths cents (\$0.091)~~]
11 sixteen and six-tenths cents (\$0.166) if the cigarettes are
12 packaged in lots of ten; or

13 (3) [~~eighteen and twenty hundredths cents~~
14 ~~(\$0.182)~~] thirty-three and two-tenths cents (\$0.332) if the
15 cigarettes are packaged in lots of five.

16 B. The tax imposed by this section shall be
17 referred to as the "cigarette tax".

18 Section 5. Section 7-12-3.1 NMSA 1978 (being Laws 1986,
19 Chapter 13, Section 3, as amended) is amended to read:

20 "7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--
21 DATE PAYMENT OF TAX DUE.--

22 A. A tax that may be identified as the "cigarette
23 inventory tax" is imposed on a distributor that has in its
24 possession tax-exempt stamps, tribal tax stamps or tax stamps,
25 whether or not affixed to packages of cigarettes, [on] at the

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1 close of business on the day prior to the date on which an
2 increase in the cigarette tax imposed by Section 7-12-3 NMSA
3 1978 is effective.

4 B. The cigarette inventory tax due from the
5 distributor is calculated by multiplying the number of tax
6 stamps in the distributor's possession by the increase in the
7 excise tax. Tax-exempt stamps and tribal tax stamps are not
8 included in the calculation to determine the amount of
9 cigarette inventory tax to be paid by a distributor.

10 C. The cigarette inventory tax is to be paid to the
11 department on or before the twenty-fifth day of the month
12 following the month in which the increase in the cigarette tax
13 is effective."

14 Section 6. Section 7-12-3.2 NMSA 1978 (being Laws 1986,
15 Chapter 13, Section 4, as amended) is amended to read:

16 "7-12-3.2. CIGARETTE INVENTORIES.--

17 A. [~~On~~] At the close of business on the day prior
18 to any date on which the cigarette tax imposed by Section
19 7-12-3 NMSA 1978 is increased, each distributor shall take
20 inventory of tax-exempt stamps, tribal tax stamps and tax
21 stamps on hand, including stamps affixed to packages of
22 cigarettes.

23 B. Each distributor shall report the total number
24 of tax-exempt stamps, tribal tax stamps and tax stamps in
25 inventory [~~on~~] at the close of business on the day prior to the

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1 date on which the cigarette tax increases and pay the cigarette
2 inventory tax due."

3 Section 7. A new section of the Cigarette Tax Act is
4 enacted to read:

5 "[NEW MATERIAL] CIGARETTE TAX--TRIBAL SALES--TRIBAL TAX
6 STAMPS.--

7 A. A distributor shall purchase from the department
8 tribal tax stamps to affix to packages of cigarettes sold to a
9 tribe or a tribal member licensed or otherwise approved by a
10 tribe to sell cigarettes under the authority of the tribe on
11 that tribe's land; provided that the tribe has certified to the
12 department that the tribe has in effect a qualifying tribal
13 cigarette tax.

14 B. Cigarettes sold by a tribe or tribal member
15 bearing a tribal tax stamp shall be sold for use or sale on
16 that tribe's land or on the land of another tribe or for use
17 but not for resale in the state at a location off any tribe's
18 land."

19 Section 8. Section 7-12-5 NMSA 1978 (being Laws 1971,
20 Chapter 77, Section 5, as amended) is amended to read:

21 "7-12-5. AFFIXING STAMPS.--

22 A. Except as provided in Section 7-12-6 NMSA 1978,
23 all cigarettes shall be placed in packages or containers to
24 which a stamp shall be affixed. Only a distributor with a
25 valid license issued pursuant to the Cigarette Tax Act may

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1 purchase or obtain unaffixed tax-exempt stamps, tribal tax
2 stamps or tax stamps. A distributor shall not sell or provide
3 unaffixed stamps to another distributor, manufacturer, export
4 warehouse proprietor or importer with a valid permit pursuant
5 to 26 U.S.C. 5713 or any other person.

6 B. Stamps shall be affixed by the distributor to
7 each package of cigarettes to be sold or distributed in New
8 Mexico within thirty days of receipt of those packages.

9 C. A distributor shall apply stamps only to
10 packages of cigarettes that the distributor has received
11 directly from another distributor or from a manufacturer or
12 importer of cigarettes that possesses a valid and current
13 permit pursuant to 26 U.S.C. 5713.

14 D. A distributor shall not affix a stamp to a
15 package of cigarettes of a manufacturer or a brand family that
16 is not included in the directory or sell, offer or possess for
17 sale cigarettes of a manufacturer or brand family that is not
18 included in the directory.

19 E. Packages shall contain cigarettes in lots of
20 five, ten, twenty or twenty-five.

21 F. Unless the requirements of this section are
22 waived pursuant to Section 7-12-6 NMSA 1978, a tax stamp shall
23 be affixed to each package of cigarettes subject to the
24 cigarette tax, a tribal tax stamp shall be affixed to each
25 package of cigarettes subject to a qualifying tribal cigarette

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1 tax, and a tax-exempt stamp shall be affixed to each package of
2 cigarettes not subject to the cigarette tax pursuant to Section
3 7-12-4 NMSA 1978.

4 G. A tax-exempt stamp is not an excise tax stamp
5 for purposes of determining units sold pursuant to Section
6 6-4-12 NMSA 1978.

7 H. Stamps shall be affixed inside the boundaries of
8 New Mexico, unless the department has granted a license
9 allowing a person to affix stamps outside New Mexico."

10 Section 9. Section 7-12-7 NMSA 1978 (being Laws 1971,
11 Chapter 77, Section 7, as amended by Laws 2006, Chapter 89,
12 Section 3 and by Laws 2006, Chapter 91, Section 6) is amended
13 to read:

14 "7-12-7. SALE OF STAMPS--PRICES.--

15 A. Only the department shall sell stamps. Stamps
16 may be sold by the department only to a distributor.

17 B. Stamps shall display a serial number. Stamps
18 bearing the same serial number shall not be sold to more than
19 one distributor. The department shall keep records of the
20 serial numbers of the stamps provided to each distributor.

21 C. A stamp shall be affixed to a package of
22 cigarettes in such a manner as to clearly display the serial
23 number at the point of sale.

24 D. Tax stamps shall be sold at their face value
25 with the following discounts:

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1 (1) ~~[one]~~ fifty-five hundredths percent less
2 than the face value of the first thirty thousand dollars
3 (\$30,000) of stamps purchased in one calendar month;

4 (2) ~~[eight-tenths]~~ forty-four hundredths
5 percent less than the face value of the second thirty thousand
6 dollars (\$30,000) of stamps purchased in one calendar month;
7 and

8 (3) ~~[one-half]~~ twenty-seven hundredths percent
9 less than the face value of stamps purchased in excess of sixty
10 thousand dollars (\$60,000) in one calendar month.

11 E. Tribal tax stamps shall be sold at their face
12 value with the following discounts:

13 (1) one and twenty-one hundredths percent less
14 than the face value of the first thirty thousand dollars
15 (\$30,000) of tribal tax stamps purchased in one calendar month;

16 (2) ninety-seven hundredths percent less than
17 the face value of the second thirty thousand dollars (\$30,000)
18 of tribal tax stamps purchased in one calendar month; and

19 (3) fifty-nine hundredths percent less than
20 the face value of tribal tax stamps purchased in excess of
21 sixty thousand dollars (\$60,000) in one calendar month.

22 F. Tribal tax stamps shall be provided only to
23 distributors; provided that the distributor is in full
24 compliance with the reporting requirements of the Cigarette Tax
25 Act and rules adopted pursuant to that act.

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1 ~~[E-]~~ G. If the face value of tax stamps or tribal
2 tax stamps sold in a single sale is less than one thousand
3 dollars (\$1,000), the discount provided for in this section
4 shall not be allowed.

5 ~~[F-]~~ H. Payment for tax stamps and tribal tax
6 stamps shall be made on or before the twenty-fifth day of the
7 month following the month in which the sale of stamps by the
8 department is made.

9 ~~[G-]~~ I. Tax-exempt stamps shall be provided only to
10 distributors and shall be free of charge; provided that the
11 distributor is in full compliance with the reporting
12 requirements of the Cigarette Tax Act and rules adopted
13 pursuant to that act."

14 Section 10. Section 7-12-9.2 NMSA 1978 (being Laws 2006,
15 Chapter 91, Section 8, as amended) is amended to read:

16 "7-12-9.2. DISTRIBUTOR'S LICENSE.--

17 A. A person shall not distribute stamped packages
18 of cigarettes for resale or sell stamped packages of cigarettes
19 at wholesale without first obtaining a distributor's license
20 from the department.

21 B. A person licensed to distribute cigarettes is
22 authorized to:

23 (1) receive unstamped packages of cigarettes
24 from a manufacturer or a distributor;

25 (2) purchase tax stamps and tribal tax stamps

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1 and receive tax-exempt stamps from the department;

2 (3) affix tax stamps, tribal tax stamps or
3 tax-exempt stamps to unstamped packages of cigarettes;

4 (4) sell stamped packages of cigarettes to a
5 retailer for resale or to a distributor; and

6 (5) sell unstamped packages of cigarettes to a
7 person licensed to distribute cigarettes outside of New Mexico
8 or to a distributor."

9 Section 11. Section 7-12-17 NMSA 1978 (being Laws 1971,
10 Chapter 77, Section 14, as amended) is amended to read:

11 "7-12-17. REPORTING REQUIREMENTS--PENALTY.--

12 A. Each person who sells in New Mexico cigarettes
13 manufactured by that person or who receives on consignment or
14 buys cigarettes either directly from the manufacturer or from
15 any out-of-state person for resale in New Mexico shall report
16 to the department by the twenty-fifth day of each month that
17 person's sales of cigarettes during the preceding month in each
18 municipality and within that portion of each county outside of
19 the municipalities located in that county. The department
20 shall then advise the state treasurer of the proportion of the
21 total sales of cigarettes for the month within each
22 municipality and within that portion of each county outside of
23 municipalities, including sales of cigarettes bearing tribal
24 tax stamps to tribes or tribal members in a county or
25 municipality. The reports of such persons shall, upon receipt

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1 by the department, become public records.

2 B. Any person who sells in New Mexico cigarettes
3 manufactured by that person or who receives on consignment or
4 buys cigarettes for resale in New Mexico who willfully fails to
5 render accurately the reports required by this section and any
6 municipal or county officer who approves any expenditure or
7 expends funds distributed from the county and municipality
8 recreational fund for any purposes other than permitted by
9 Section 7-12-15 NMSA 1978 is guilty of a petty misdemeanor.

10 C. Any tobacco product manufacturer, stamping agent
11 or importer of cigarettes, or any officer, employee or agent of
12 any such entity, who knowingly makes a materially false
13 statement in any record required to be kept by the Cigarette
14 Tax Act, or in any report or return required to be filed with
15 the department by the Cigarette Tax Act, is guilty of a fourth
16 degree felony."

17 Section 12. Section 7-12-18 NMSA 1978 (being Laws 2006,
18 Chapter 91, Section 14, as amended) is amended to read:

19 "7-12-18. REPORTS.--

20 A. A distributor shall submit periodic reports to
21 the department, in the manner and on the form prescribed by the
22 department. A distributor shall submit a separate report for
23 each of its facilities. The information in the report shall be
24 itemized and shall clearly disclose cigarette brands,
25 quantities and the type of stamp applied to the packages of

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1 cigarettes. A report shall include:

2 (1) an inventory of stamped and unstamped
3 packages of cigarettes by type of stamp held for sale or
4 distribution within New Mexico at the beginning of the
5 reporting period;

6 (2) the quantity of stamped packages of
7 cigarettes by type of stamp held for sale or distribution
8 within New Mexico that were received from another person during
9 the reporting period and the name and address of each person
10 from whom each quantity was received;

11 (3) the quantity of New Mexico stamped
12 packages of cigarettes by type of stamp that were distributed
13 or shipped to another distributor or retailer within New Mexico
14 during the reporting period and the name and address of each
15 person to whom each quantity was distributed or shipped;

16 (4) the quantity of unstamped packages of
17 cigarettes that were distributed or shipped to another
18 distributor within New Mexico during the reporting period and
19 the name and address of each person to whom each quantity was
20 distributed or shipped;

21 (5) the quantity of New Mexico stamped
22 packages of cigarettes by type of stamp that were distributed
23 or shipped to another facility of the same distributor within
24 New Mexico during the reporting period and the address of that
25 facility;

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1 (6) the quantity of stamped cigarette packages
2 by type of stamp that were distributed or shipped within New
3 Mexico to [~~an Indian nation, tribe or pueblo or to a person~~
4 ~~located on the land of an Indian nation, tribe or pueblo~~] a
5 tribe or tribal member or to instrumentalities of the federal
6 government during the reporting period and the name and address
7 of each person, entity or instrumentality to whom each quantity
8 was distributed or shipped;

9 (7) an inventory of stamped by type of stamp
10 and unstamped packages of cigarettes held for sale or
11 distribution within New Mexico at the end of the reporting
12 period;

13 (8) an inventory of stamped by type of stamp
14 and unstamped packages of cigarettes for sale or distribution
15 outside of New Mexico at the beginning of the reporting period;

16 (9) the quantity of packages of cigarettes
17 held for sale or distribution outside of New Mexico that were
18 received from another person during the reporting period and
19 the name and address of each person from whom each quantity was
20 received;

21 (10) the quantity of packages of cigarettes
22 that were distributed or shipped outside New Mexico during the
23 reporting period;

24 (11) an inventory of packages of cigarettes
25 held for sale or distribution outside of New Mexico at the end

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1 of the reporting period;

2 (12) the number of each type of stamp on hand
3 at the beginning of the reporting period;

4 (13) the number of each type of stamp
5 purchased or received during the reporting period;

6 (14) the number of each type of stamp applied
7 during the reporting period; and

8 (15) the number of each type of stamp on hand
9 at the end of the reporting period.

10 B. A manufacturer shall submit periodic reports in
11 the manner and on the form prescribed by the department. The
12 information in the report shall be itemized to clearly disclose
13 cigarette brands and quantities. The reports shall be provided
14 separately with respect to each of the facilities operated by
15 the manufacturer. A report shall contain the quantity of
16 packages of cigarettes that were distributed or shipped:

17 (1) to a manufacturer, distributor or retailer
18 within New Mexico during the reporting period and the name and
19 address of each person to whom each quantity was distributed or
20 shipped;

21 (2) to another facility within New Mexico of
22 the same manufacturer during the reporting period and the
23 address of the facility; and

24 (3) within New Mexico to ~~[an Indian nation,~~
25 ~~tribe or pueblo or to a person located on the land of an Indian~~

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1 ~~nation, tribe or pueblo]~~ a tribe or tribal member or to
2 instrumentalities of the federal government during the
3 reporting period and the name and address of each person,
4 entity or instrumentality to whom each quantity was distributed
5 or shipped.

6 C. The department may require additional
7 information to be submitted. The department shall establish
8 the reporting period, which shall be no longer than three
9 calendar months and no shorter than one calendar month."

10 Section 13. Section 7-12-19 NMSA 1978 (being Laws 2006,
11 Chapter 91, Section 15) is amended to read:

12 "7-12-19. INTERGOVERNMENTAL AGREEMENTS--NO WAIVER OF
13 SOVEREIGN IMMUNITY.--

14 A. The department may enter into an
15 intergovernmental agreement with a tribe to:

16 (1) enforce, administer or otherwise implement
17 the provisions of the Cigarette Tax Act;

18 (2) increase the ability of the department to
19 account for packages of cigarettes imported into, sold or
20 transferred within and exported from the state; and

21 (3) provide for cooperative tax collection or
22 tax administration of the cigarette tax.

23 B. Nothing in the Cigarette Tax Act shall be
24 construed to waive or restrict the sovereign immunity of a
25 tribe or the state.

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